

**MCDOWELL SONORAN PRESERVE COMMISSION
COMMUNITY DESIGN STUDIO – NAVE
SCOTTSDALE, ARIZONA 85251
THURSDAY, FEBRUARY 9, 2006
5:00PM**

APPROVED MINUTES

PRESENT: Art DeCabooter, Chairman
Christina Kovach, Vice-Chair
Carla
Erik Filsinger
Joan Fudala
Virginia Korte
Gerry Miller
Arnold Roy
Linda Whitehead
Solange Whitehead

ABSENT: Melinda Gulick

STAFF: Bob Cafarella, McDowell Sonoran Preserve Director
Scott Hamilton, Trails Planner

1. CALL TO ORDER

Chairman DeCabooter called the meeting to order at 5:05 p.m., noting the presence of a quorum.

2. APPROVAL OF DECEMBER 1, 2005 MINUTES

Commissioner Linda Whitehead noted a correction to the motion concerning the wireless facility in the Preserve on page 3 of the December 1, 2005 minutes. The motion should read as follows: "Linda Whitehead moved that the Commission write the City Council, stating that based on the concerns previously expressed by the Commission concerning new wireless facilities in the Preserve Boundary, this request from T-Mobile is inappropriate."

COMMISSIONER KORTE MADE A MOTION TO APPROVE THE MINUTES OF THE DECEMBER 1, 2005 MEETING WITH THE NOTED CORRECTION. SECONDED BY COMMISSIONER FUDALA, THE MOTION CARRIED UNANIMOUSLY BY A VOTE OF TEN (10) TO ZERO (0).

3. BOND FUND TRANSFER FROM LOST DOG WASH ACCESS AREA

Bob Cafarella discussed the controversy over the 2000 bond fund. He noted that in 2000 a commitment was achieved for funds for future access areas and Lost Dog Wash in particular, also noting that in 2004 the Preserve Funding Measure was approved by voters. Mr. Cafarella elaborated that the Financial Services Department approached the Bond Commission in an attempt to redirect those bond funds to the Senior Center, noting that they believed the Lost Dog Wash project would not be hurt because of available funds from the Preserve Tax. The item was pulled from the City Council agenda because of

public opposition. The Financial Services Department is now returning to Council with an alternative source. He clarified that the funds being discussed are bond funds, not Preserve tax money.

Commissioner Linda Whitehead expressed concern that something of this significance would go forward to City Council without Preserve Commission involvement. She made the argument that replacing the bond money with 2004 Preserve Tax Funds that were allocated for access area construction and acquisition would be a diversion of Preserve Tax Funds. She opined that the Commission has an obligation to prevent erosion of the public trust.

Commissioner Carla commented that although funds are being used properly, opponents are using the situation to create a public perception that the funds are being misused. She opined that while there may have been valid reasons for redirecting the bond funds, City Council did the right thing pulling it from their agenda, because the perception was that something improper was happening.

Commissioner Filsinger expressed his surprise at hearing about this issue, noting two concerns: The Preserve Commission was not involved in the process and the question of potential abuse of funds should also be addressed.

Commissioner Carla commended staff for the job they have done purchasing land for the Preserve and bringing the Commission in when there is a need to go to Council to advocate for a purchase. She opined that in the future the Preserve Commission needs to be kept informed of any similar situation, without placing staff in an awkward position.

Chairman DeCabooter reiterated that even though the bond funds situation is settled, there needs to be a mechanism to put the Commission in the process for discussion on these subjects.

COMMISSIONER LINDA WHITEHEAD MOVED THAT THE PRESERVE COMMISSION COMMUNICATE WITH CITY COUNCIL THAT ANY TIME FUNDS ARE REQUESTED TO BE TRANSFERRED FROM ANY PRESERVE USE TO A NONPRESERVE USE THAT THE PRESERVE COMMISSION HAVE AN OPPORTUNITY TO REVIEW AND COMMENT ON THAT PROPOSAL. COMMISSONER ROY SECONDED THE MOTION.

Chairman DeCabooter clarified for Commissioner Filsinger that the request would be communicated through a memo from himself to City Council.

In response to an inquiry by Commissioner Korte, Mr. Cafarella explained that staff were made aware of the proposed action and were careful not to ignite undue conflict. Staff were under the impression that the City Manager supported this proposal. They discovered this was not the case when the proposal was before City Council. He added that there were other options available for Financial Services, such as using contingency funds or money accrued from interest which must be spent on capital projects.

Commissioner Fudala expressed concern that now that the Bond Committee is aware of these funds, they may consider reallocating them in the future. Mr. Cafarella noted that the money is being spent on the Lost Dog Wash and when those funds are depleted, there will be no additional bond money.

Commissioner Carla clarified her intent was to support staff. If they are ever again put in an awkward position, they will be able to reference the Commission's request to be kept notified about funds.

THE MOTION CARRIED UNANIMOUSLY WITH A VOTE OF TEN (10) TO ZERO (0).

4. PICNIC AREAS IN THE GATEWAY

Mr. Cafarella reviewed the decision to recommend that no picnic areas be put in Gateway. He commented that one of the things contained in the access area plan is the potential for picnic areas. He recalled that when planning Lost Dog Wash, the decision was made not to include picnic areas and the Commission was to revisit the subject with regard to Gateway. In an earlier discussion, he and several Commission Members, determined that it would be inappropriate to have picnic areas in Gateway for the same reasons they chose not to have them at Lost Dog, including lack of appropriate staff.

Chairman DeCabooter recalled the discussion, noting unanimous support among that group for not installing picnic areas.

Vice-Chair Kovach expressed concern about people who are not hikers enjoying the area without picnic tables. Mr. Cafarella responded that there will be areas for those people such as a ramada, an amphitheater and a seating area over a wash within a hundred feet of parking. He noted that there will be no cooking facilities available; however, people may bring in food.

Commissioner Linda Whitehead inquired whether there was a plan in place for policing food disposal. She noted that if food is not disposed of properly, it can attract undesirable animals, which can cause damage to the environment. Mr. Cafarella noted there will be appropriate trash receptacles available. Mr. Cafarella opined that there will be a great opportunity for a coffee house at the Desert Discovery Center.

Commissioner Carla suggested installing educational signage explaining the effects of inappropriate trash disposal.

Commissioner Fudala clarified that the issue is more about not listing picnic areas. Listings in tourism guides and on maps would attract more activity than is desired.

Chairman DeCabooter invited the Commission to take action on the item. In response to inquiry by Commissioner Carla regarding staff's need for the Commission to take action, Vice-Chair Kovach opined that there should be an official action, because last year it was decided to revisit Gateway when it came up.

VICE-CHAIR KOVACH MOVED THAT PICNIC AREAS BE BANNED FROM THE GATEWAY. SECONDED BY COMMISSIONER MILLER, THE MOTION CARRIED UNANIMOUSLY WITH A VOTE OF TEN (10) TO ZERO (0).

5. GEOGRAPHIC NAMES IN THE PRESERVE

Chairman DeCabooter commented that this is Don Meserve's project and he was unable to attend the meeting.

Mr. Cafarella reported that Mr. Meserve has been in contact with the Geographic State Board and they decided on a sequence of submittals, noting that three have been submitted since December. They decided to work from the south part of the Preserve to the north.

Chairman DeCabooter noted that this item will be carried to the next agenda so that Mr. Meserve can make a presentation.

6. STATE LAND REFORM

Commissioner Carla mentioned that there are 150,000 signatures for Conserving Arizona's Future so far. She discussed the Nelson Bill, HCR 2045, noting that it purports to be State land reform but was actually penned by the Arizona homebuilders lobbyist. She opined that the Legislature will refer Nelson's Bill to the November ballot as a spoiler against Conserving Arizona's Future.

Conservation partners have had a bill introduced by Representative Huffman, HBA.2857, so that honest discussion can be initiated about the differences between Conserving Arizona's Future and Nelson's Bill. Commissioner Carla stated that the leadership of the Legislature is firmly behind Nelson's Bill and it is important to concentrate on getting signatures for Conserving Arizona's Future.

Commissioner Carla remarked that there are many Bills introduced to the Legislature regarding eminent domain and condemnation. She indicated that these bills will make it nearly impossible for the City to condemn land for public purposes. The key Bills are SB.152, HB.25.19, HTR.2002, and SCR.1002. Commissioner Carla explained that if these Bills pass it would be very difficult to purchase Preserve land, because the City would have the burden of all legal fees, would have to pay restitution to neighboring property owners of condemned land, and would have to prove public purpose.

7. DIRECTOR'S REPORT

Mr. Cafarella reminded the Commission about the joint meeting with the Parks Commission to be held at the Via Linda Senior Center. He mentioned that the designer of the Gateway would be presenting the design for the Gateway and preliminary information on the Desert Discovery Center.

Mr. Cafarella reported that an open house will be held at Horizon Park Community Center, 15441 North 100th Street, on February 16. He mentioned that the Conservancy will be there and it would be good to have some Commission representation. He opined that it would be a good opportunity to get to know some of the Council candidates.

May 20th will be the opening of Lost Dog Wash. Mr. Cafarella confirmed that even though the restrooms and the bridge are not expected to be open, there will be festivities. The bypass will be open. He reported that after the festivities mountain bikers, hikers, and equestrians will be able to use the facilities.

Mr. Cafarella reported that money is now being put aside for restoring State land that the City should start taking over by 2009. Mr. Cafarella noted that he will bring the budget to the Commission.

An article in the newspaper concerning a lawsuit with the Golf Club of Scottsdale was addressed by Mr. Cafarella. He mentioned that the property is adjacent to one of the City's condemnees. He noted that he thought they would have more of a legitimate case because they were supposed to be paid, which was not done. The Golf Club's case has been thrown out of two courts already and they say they will go to the Supreme Court. Mr. Cafarella noted that City attorneys do not believe this will be significant to the City, because other cases were handled differently.

In response to Commissioner Filsinger, Mr. Cafarella mentioned that the land and the easement for Thompson Peak Road are owned by Scottsdale and the County would prefer it not be used because of the antennas at the top of the peak.

Mr. Cafarella mentioned that the project of lining up all the trails with the County is being managed by Claire Miller and is going well.

Mr. Cafarella mentioned that the County has filed a petition under API to purchase the strip of land between the County Park and the Preserve. He noted that the City owns all the rights and has started planning that will provide a road where appropriate and a more sustainable trail to hook into the existing trail system. Commissioner Filsinger mentioned there needs to be some education about the availability of the trail. Commissioner Carla noted it cannot be promoted as an open trail. Mr. Cafarella opined that once the acquisition of the State land is finished, there should be a connection to the State Park. Commissioner Filsinger suggested that parking near the Dixie Mine in Fountain Hills could be used for access to the trail.

Chairman DeCabooter asked that this item be carried as an agenda item.

Commissioner Miller asked if it would be possible to get an overall plan for the Preserve which would explain what work needs to be done and the manpower and funding needs. Mr. Cafarella stated that this will be addressed at the upcoming strategic meeting.

8. PRESERVE MANAGER'S REPORT

Scott Hamilton addressed the Commission. Highlights of his presentation included a map depicting all of the existing and prospective trails and a preliminary site plan for Gateway. He reviewed plans for connecting existing and new trails. Mr. Hamilton elaborated that there is discussion about a sensory area and opportunities for people with mobility impairments. He noted they are shooting for a spectrum of opportunity ranging from opportunities for people who do not want to go into the desert to seasoned hikers. He mentioned the "Unnamed Trail" which will connect the Bell Pass Trail to the existing Quartz Trail.

Mr. Hamilton reported on the progress of the contractor working on Bell Pass and Bell Loop. He noted the help of the stewards, explaining how the contractor lifts cactus out of the trails and the stewards go back and replant them in another area. Mr. Hamilton reviewed progress on the Lost Dog Wash Access area. He noted that most of the off-site roadway improvements are completed.

Commissioner Fudala inquired whether there had been any discussion about scheduling a closing date for the Preserve due to the high fire risk this year. Chairman DeCabooter requested that the subject be placed on the agenda of the next Commission meeting.

In response to inquiry by Commissioner Miller, Mr. Hamilton explained that the "Unnamed Trail" runs along the edge of McDowell Mountain Ranch. He noted that easements were secured when the land was subdivided, however there has been a request submitted to McDowell Mountain Ranch to grant an additional easement. Mr. Hamilton explained that once the new trails are completed, old trails will be covered to discourage use.

In response to an inquiry by Commissioner Filsinger, Mr. Hamilton explained that the area on the northwest corner of the trails map has been marked to be revisited at a later date.

9. **FUTURE EXECUTIVE SESSION FOR MCDOWELL SONORAN PRESERVE COMMISSION**

MOTION TO HOLD AN EXECUTIVE SESSION ON MARCH 2, 2006, FOR THE PURPOSE OF DISCUSSION WITH REPRESENTATIVES OF THE PUBLIC BODY AND CONSULTATION WITH CITY ATTORNEY FOR LEGAL ADVICE TO CONSIDER ITS POSITION AND INSTRUCT ITS REPRESENTATIVES REGARDING NEGOTIATING FOR PURCHASE OR LEASE OF REAL PROPERTY FOR INCLUSION IN THE MCDOWELL SONORAN PRESERVE ARS 380431.03 (A) (3) and (A) (7).

VICE-CHAIR KOVACH MOVED TO ACCEPT THE MOTION AS OUTLINED. SECONDED BY COMMISSIONER LINDA WHITEHEAD, THE MOTION CARRIED UNANIMOUSLY WITH A VOTE OF TEN (10) TO ZERO (0).

10. **COMMISSIONER COMMENTS AND PUBLIC COMMENTS**

Noting that she was speaking as a citizen Commissioner and not as a representative of the Conservancy, Commissioner Carla reviewed the anti wildlife feeding Bill, SB.1438, which would give Game and Fish a way to enforce rules against feeding wildlife.

Chairman DeCabooter commented that the ad hoc Task Force he has been chairing that is developing a Code of Ethics for City Council will have the report ready in two weeks. He opined that it will impact Commissions as well as the Mayor and City Council. He opined that the Code of Ethics is not onerous and will be beneficial.

11. **JOINT MEETING WITH PARKS COMMISSION FEBRUARY 15, 5:00 p.m. AT THE VIA LINDA SENIOR CENTER**

Discussed under Director's Report above.

12. **MEETING DATE FOR JOINT MEETING WITH TOURISM COMMISSION**

Mr. Cafarella stated that it would be appropriate to meet with the Tourism Commission to discuss the Discovery Center. He noted that they have been a partner to the McDowell Sonoran Preserve Commission funding studies and may some day be asked to fund some construction. Chairman DeCabooter asked that if possible, the meeting be arranged for the first agenda item for the March meeting.

13. AGENDA ITEMS FOR FUTURE MEETINGS

Commissioner Carla requested that the new commander in the northern area come in to present his vision to the Commission.

Commissioner Linda Whitehead suggested a discussion on enforcing areas closed to motor vehicles within Scottsdale's purview. She noted that ATVs are a fire hazard and the possible closure of the Preserve during fire season.

Commissioner Linda Whitehead requested discussion concerning strengthening the City's position on the subject of wireless facilities in the Preserve. She noted that a recent case that was recommended for denial by the McDowell Sonoran Commission was put on the expedited agenda in Planning and then returned to them from City Council with instructions to find a place outside the Preserve. She opined that the problem is if the wireless companies can prove they meet criteria, it is difficult to deny.

Commissioner Solange Whitehead opined that the fire discussion should be about how to prevent fires in the Preserve rather than closure.

Commissioner Solange Whitehead requested a review of the ten-year access plan.

14. ADJOURNMENT

With no further business to discuss, and no need for an executive session, the meeting adjourned at 6:23 p.m.

Respectfully submitted,
A/V-Tronics, Inc.